

**OPENING STATEMENT OF REP. EDWARD J. MARKEY (D-MA)**  
**OVERSIGHT AND INVESTIGATIONS SUBCOMMITTEE**  
**HEARING ON DESTRUCTION OF ENRON-RELATED DOCUMENTS OF ARTHUR**  
**ANDERSON PERSONNEL**  
**THURSDAY, JANUARY 24, 2002**

Thank you, Mr. Chairman, for extending to me the courtesy of participating in today's hearing.

I think it is outrageous that the same executives who may be responsible for the destruction of workers' pensions -- and the destruction of documents that might prove their guilt -- are currently protected by Congress when defrauded worker's actually try to recover their life savings. But, sadly, it is true. Why? Because in 1995, Arthur Anderson and the other big accounting firms succeeded in lobbying Congress to strictly limit their future liability for securities fraud. That bill passed over the President's veto as part of the Republican Contract with America. And today, we are seeing the grim results -- Arthur Anderson can no longer be held jointly and severally liable when a court has found them guilty of securities fraud. I believe that this ill-advised law has directly contributed to a rising tide of accounting failures, culminating in the Enron-Arthur Anderson fiasco. The types of internal checks and balances that a healthy concern about litigation risk used to create within each accounting firm has been undermined. The many honest and decent people who want to do the right thing get overruled, and the increasing revenues coming from consulting and non-audit businesses put growing pressure to sign off on the 'cooked books' of major clients.

Yesterday, I introduced legislation aimed helping to address this problem. This bill would, among other things, require auditors to retain copies of all documents generated during the course of an audit for a period of four years and establish criminal penalties of up to ten years imprisonment for auditors that knowingly and willfully destroy such documents. The bill also would reform the liability standards applicable to accountants in securities fraud cases and provide an exemption from the "Catch 22" discovery stay that allows accounting firms to escape accountability for their actions. I look forward to working with Members on this and other reforms. Clearly, we have a system that is very broken, and we need to work together to fix it.

Today's hearing is focused on the disturbing reports that employees of Arthur Anderson have destroyed documents in connection with the Enron debacle. I think it's appalling that Anderson CEO Joseph Berardino has declined the Subcommittee's invitation to testify on this matter, when he was somehow able to make an appearance on Meet the Press last Sunday. I have also read that Mr. Berardino has agreed to appear before the House Financial Services Committee on February 4th. If Mr. Berardino can appear to answer questions on national television and before other Committees, it seems to me that he should be able to appear before this Subcommittee so that we can get to the bottom of why his firm destroyed documents being sought by the SEC, by the Justice Department, and by defrauded workers and investors.

Now, I have many questions about the underlying transactions and investments whose accounting treatment helped to bring Enron to bankruptcy, but I understand that this is not the subject of today's hearing. I would merely hope, Mr. Chairman, that we will have a chance to thoroughly examine Enron's investments in broadband, its energy trading operations, and its derivatives and other structured financings in the detail needed to understand just what happened here and what lessons we can learn from this massive fraud and misbehavior. That will require more than a single hearing of all of the principals to do properly.

Thanks again, Mr. Chairman, for allowing me to participate in today's hearing. I look forward to the testimony.